

MISSOURI DENTAL BOARD: Authorized to employ counsel.

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September 5, 1935.



Honorable Forrest Smith  
State Auditor  
Jefferson City, Missouri

Dear Mr. Smith:

Acknowledgment is herewith made of your request for an opinion of this office on the following matter:

"Enclosed you will please find a bill of the Yates and Wild against the appropriation made to the Missouri Dental Board which is self-explanatory.

I would like an early opinion from your office relative to the payment of the same. Will you please return this bill with your opinion."

The question involved is the power of the Missouri Dental Board to employ and pay counsel for services rendered in connection with the duties of the Board prescribed by law.

The Missouri Dental Board is constituted a body corporate with power to sue and be sued in that name, Section 13557. Chapter 108, R. S. Missouri 1929, prescribes many duties to be performed by this Board and likewise delegates certain powers. Section 13567 provides in part:

"The Board may take oral and written proof for and against the accused, and may also employ a competent attorney to represent the board in such proceedings."

Section 13573 provides in part:

"The board shall be authorized and empowered to employ and pay all necessary legal and clerical services whenever, in their opinion, the same is necessary; all necessary and reasonable traveling expenses of their counsel may be paid by the board when their counsel is absent from his office at the request of the board."

From the foregoing provisions the Missouri Dental Board is specifically authorized to employ such counsel as is, in their opinion, necessary to enable them to perform the duties imposed by statute. By reason of this specific statutory authority there can be no doubt as to the power of the Missouri Dental Board to employ counsel.

With reference to the payment of the expenses of the Board, Section 13573 provides for compensation of the members of the Board at Five Dollars per day and a salary for the Secretary of the Board to be fixed by the Board. The section then provides:

"All expenses and salaries provided for in this chapter shall be paid from the fees received by the Board under the provisions of this chapter and no part of said salaries or expenses shall at any time be paid out of any funds in the State Treasury."

By this provision it is clearly the legislative intent that the Missouri Dental Board must earn from the fees received all the salaries and expenses incurred. The only salary provided is that of the Secretary, and it is apparent that the statute has included all other charges against the fees as "expenses".

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CONCLUSION.

It is therefore the opinion of this office that the Missouri Dental Board is specifically authorized by statute to employ legal counsel and that the payment therefor is a proper charge as an "expense" of the Board.

We are herewith returning the bill as per your request.

Respectfully submitted,

DRAKE WATSON,  
Assistant Attorney General

APPROVED:

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JOHN W. HOFFMAN, JR.,  
(Acting) Attorney General.

DW:MM  
Enclosure.